

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 248 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 32-8-11-10 IS AMENDED TO READ AS
- 4 FOLLOWS: Sec. 10. (a) This chapter does not limit:
- 5 (1) the right to assign, mortgage, or pledge the rents and profits
- 6 arising from real estate;
- 7 (2) the right of an assignee, a mortgagee, or a pledgee to collect
- 8 rents and profits for application in accordance with an
- 9 assignment, a mortgage, or a pledge; or
- 10 (3) the power of a court of equity to appoint a receiver to take
- 11 charge of real estate to collect rents and profits for application in
- 12 accordance with an assignment, a mortgage, or a pledge.
- 13 (b) A person may enforce an assignment, a mortgage, or a pledge
- 14 of rents and profits arising from real property:
- 15 (1) whether the person has or does not have possession of the
- 16 real estate; and
- 17 (2) regardless of the:
- 18 (A) adequacy of the security; or
- 19 (B) solvency of the assignor, mortgagor, or pledgor.
- 20 (c) If a person:
- 21 (1) enforces an assignment, a mortgage, or a pledge of rents and
- 22 profits arising from real estate; and
- 23 (2) does not have possession of the real estate;
- 24 the obligations of a mortgagee in possession of real estate may not be
- 25 imposed on the holder of the assignment, mortgage, or pledge.
- 26 **(d) A mortgagee seeking equitable subrogation with respect to**
- 27 **a lien may not be denied equitable subrogation solely because:**

1           **(1) the mortgagee:**  
2               **(A) is engaged in the business of lending; and**  
3               **(B) had constructive notice of the intervening lien over**  
4 **which the                      mortgagee seeks to assert priority;**  
5           **(2) the lien for which the mortgagee seeks to be subrogated**  
6 **was released; or**  
7           **(3) the mortgagee obtained a title insurance policy."**

8           Page 3, between lines 36 and 37, begin a new paragraph and  
9 insert:

"SECTION 3. IC 32-8-15.5-17, AS ADDED BY P.L.207-2001,  
SECTION 1, IS AMENDED TO READ AS FOLLOWS: Sec. 17. (a)  
This chapter applies to the release of a mortgage after June 30, 2001,  
and before July 1, ~~2002~~, **2003**; regardless of when the mortgage was  
created or assigned.

(b) This chapter expires July 1, 2003."

Renumber all SECTIONS consecutively.

(Reference is to ESB 248 as printed February 22, 2002.)

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Representative FOLEY